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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R No.150 of 1998
Date of decision:4.12.2006

The Commissioner of Income-Tax, Jalandhar ...Petitioner

Versus

M/S Doshi Rice Mills, Guru Har Sahai Road, Mukatsar

...Respondent

CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Dr.N.L.Sharda, Advocate for revenue-petitioner
Mr.Akshay Bhan, Advocate for the revenue.

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JUDGMENT

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh arising out of its order dated 9.1.1990 passed in I.T.A.No.3/ASR/86, in respect of the assessment year 1981-82.

> "Whether on the facts and in the circumstances of the case, the ITAT was right in law in deleting the addition of Rs.9,68,474/- made by the ITO on account of difference in the value of stock hypothecated with the bank and that shown in the books of account of the assessee?"

The Assessing Officer has made an addition to the income declared by the assessee on account of difference in stock shown in the books of account and statement furnished to the bank in the loan account. The CIT(A) set aside the addition. It was held that figure mentioned in the DP statement furnished to the bank as on 31.12.1980 appeared to be inflated and as on 31.3.1981, there was no discrepancy. This finding was affirmed by the Tribunal.

The matter has been considered by this Court on earlier occasion and it has been held that mere discrepancy in the bank statement and the accounts of the assessee was not enough to justify

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addition to the income if the position could be satisfactorily explained. In the present case, the Appellate Authority as well as the Tribunal have recorded a finding that the assessee have duly explained the position and as on 31.3.1981 there was no discrepancy calling for the addition in the income of the assessee. Reference may be made to order of this Court in **The Commissioner of Income-Tax, Panchkula Vs. M/S Chauhan Paper Pvt. Limited, Chhoti Line, Yamuna Nagar ITA No.358 of 2006 decided on 12.10.2006**.

Learned counsel for the revenue has not been able to show that the concurrent finding recorded by the CIT(A) and the Tribunal that the assessee had duly explained the difference in the statement furnished to the bank and the books of account, was in any manner vitiated .

Accordingly, the question referred is answered against the Revenue and in favour of the assessee.

The reference is disposed of.

(Adarsh Kumar Goel)
Judge

December 04,2006 **(Rajesh Bindal)**
Pka **Judge**